

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PS – Produtur Municipality – Sri R.Subba Rayudu, Night Watchman and other (5) Dismissed on the allegation of drawing of physically handicapped allowance illegally Convicted by First Additional Judicial magistrate of First class, Kadapa, - Acquitted by First Additional Sessions of Judger, Kadapa – Reinstatement into service & recovery of the amount – Orders – Issued.

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MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT DEPARTMENT

G.O.Rt.No. 1645

Dated.19-12-2011.

Read the following:-

1. Dismissal orders in respect of Sri R.Subba Rayudu and others (5) vide Proceedings of Joint Collector, Kadapa & Special Officer Produtur Municipality vide Roc.No.1165/2002-C1, dt.01-02-2011.
2. From the C&DMA., Lr.Roc.No.4889/07/C2, dt.31-01-2011.
3. Orders of the First Additional Sessions Judge, Kadapa in Cr. Appeal No. 82/10 dt.27-07-2011.

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ORDER

It is alleged that Sri R.Subba Rayudu, Night Watchman, 2. Sri K.Sudhakar Reddy, Record Assistant, 3. Sri C.Venugopal, Prak-Coolie 4. Sri K.B.V.Subrahmanyam JA., 5. Sri R.Venklata Ramana, Record Assistant, and 6. Sri D.Venkata Reddy, Record Assistant, Produtur Municipality submitted false medical certificates and claimed physically handicapped conveyance allowance to a tune Rs.99,710/- contrary to the orders issued in G.O.Ms.No.262, Finance and Planning department dated. 25-08-2008 and therefore, a criminal case was registered against them. The first Additional Judicial magistrate of First Class, kadapa in C.C>No.81/07 dated. 09-09-2010 found them guilty of offences punishable under section 420, 468 and 471 I.P.C. and convicted them and imposed upon then the sentence of simple imprisonment for one year and fine of Rs. 2000/-. The Joint collector Kadapa, and Special Officer, Produtur Municipality in his proceedings Roc.No.1165/02-C1, dt.01-02-2011 dismissed Sri C.Venugopal, Prak-Coolie; Sri K.Sudhakar Reddy, Record Assistant; Sri R.Subba Rayudu, Night Watchman; Sri D.Venkata Reddy, Record Assistant, Sri R.Venklata Ramana, Record Assistant, from Service. The Regional Director – cum – Appellate Commissioner of Municipal Administration, Anantapur in Proceedings Roc.No.1397/A3, dated.05-02-2011 dismissed Sri K.Balavenkata Subrahmanyam, Junior Assistant from Service.

2. On appeal the First Additional Session Judge, Kadapa in Criminal Appeal no.82/10, dated.27-07-2011 held that in view of the probability handicapped would have put up their applications claming the physically handicapped conveyance allowance along with the certificates issued by the concerned medical office regarding their hearing impairment and it is for the sanctioning authorities to look in to the adequacies of such claim and certificates produced and pass appropriate orders whether to sanction or not to sanction in pursuance of the government orders and guidelines concerned. Therefore, submitting applications itself cannot be called as crime under section 420, 468 and 471 I.P.C. The Curt further held that similarly drawing the allowance in pursuance of the sanction orders passed by the competent authority cannot be called as a crime for the offences under section 420, 468 and 471 I.P.C. For the mistake of sanctioning authority while passing sanction orders for drawing allowance by A.1 to A.6, they cannot by penalized for the alleged offences under section 420, 468 and 471 I.P.C. for the sake that A.1 to A.6 put up their applications claiming the handicapped conveyance allowance and they have drawn it as per the sanction orders, the absence of substantial proof disclosing the knowledge to A.1 to A.6 they are not entitled for the benefit under the concerned government orders and the intention to commit fraud for drawing the amount even though they are not entitled. The Court, therefore, held that the accused are entitled to benefit of doubt and found then, not guilty of the offences and acquitted them.

3. F.R.54 (1) provides that when a government servant who has been dismissed is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not the authority competent to order reinstatement shall consider and make a specific order

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(a) regarding the pay and allowance to be paid to the government servant for the period of his absence from duty including the period of suspension preceding his dismissal and (b) whether not the said period shall be treated as period spent on duty. FR 54 (2) provides that where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Government servant shall subject to the provision of sub-rule (b) be paid full pay and allowances for which he would have been entitled had he not been dismissed and in such cases the suspension and dismissal period may be regularized as duty under 53(3) FR 54 (4) provides that in case other than those falling under sub-rules (2) and (3) the pay and allowances payable to a Government servant for the period of dismissal or suspension shall be limited to the subsistence allowance already paid under FR 53 and as per FR 54 (5) the out of employment period shall be regularized as not on duty.

4. Instructions were issued in Circular Memo.No.32419/838/FR/03 Finance department dated.19-06-2004 on payment of back wages to Government servant who is involved in court case.

5. In view of the, above instructions, it is observed that where the employees were dismissed from service consequent upon conviction by the trial court and later they are acquitted by the appellate Court, they are entitled to reinstatement into service. The period from the date of removal up to the date of the judgment of the Appellate Court can be regulated under F.R. 54(4) and (5) as "not on Duty" on the Principle of "No Work No Pay".

6. Government after careful examination of the matter and in view of the orders of the Hon'ble First Additional Sessions Judge Kadapa in the reference 3rd read above, hereby order that the amount erroneously sanctioned to the (6) individuals by misinterpreting the Government orders, the same shall be recovered from the sanctioning authority duly identifying him. Government also direct that the above (6) individual mentioned at para (1) above who are acquitted in this case be reinstated into service. The period out of employment be regularized as "Not on Duty" denying back wages period under FR 54 (4) and (5), as they are acquitted.

7. The Director Municipal Administration, Hyderabad, shall take necessary action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**B.SAM BOB
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Director of Municipal Administration, Hyderabad

Copy to :-

The District Collector Kadapa.

The Additional DGP., of Police CID, Ap., Hyderabad.

The Secretary to APVC.

The PS to Special Secretary to CM.

The PS to M(MA).

SF/SC.

//FORWARDED:BY ORDER//

SECTION OFFICER